

SENATE BILL No. 324

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-19-3.5; IC 16-41; IC 22-13; IC 22-15; IC 36-7-2-9.

Synopsis: Construction permits and regulation. Provides that the following occur on or after July 1, 2016: (1) Provides deadlines for the state department of health (department) to issue construction permits, conduct plan reviews, and provide notices. (2) Allows the department to issue a construction permit without a plan review. (3) Requires the department to issue a construction permit without further review, if the department fails to provide notice or a complete plan review within the time required by statute. (4) Provides for a combined application process that allows an applicant to apply for a construction permit from the department and a design release from the division of fire and building safety (division) by submitting a single application to the division. (5) Requires the division to provide the combined application to the department within one business day of receipt. (6) Creates a subcommittee of the fire prevention and building safety commission to interpret fire and building safety laws. Requires the department and division, not later than June 30, 2016, to create a combined application form and a means of enabling the division to transfer or make applications accessible to the department. Requires the fire prevention and building safety commission, not later than June 30, 2016, to create a form for petitions to the subcommittee of the fire prevention and building safety commission for interpretation of fire and building safety laws. Repeals statutes that require the state building commissioner to issue written interpretations of fire and building safety laws.

Effective: Upon passage; July 1, 2016.

Messmer

January 7, 2016, read first time and referred to Committee on Local Government.



Second Regular Session 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

SENATE BILL No. 324

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 16-19-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2016]:
4 **Chapter 3.5. Construction Permits and Plan Review**
5 **Sec. 1. As used in this chapter, "applicant" means a person that**
6 **applies for a construction permit under this chapter.**
7 **Sec. 2. As used in this chapter, "application" means an**
8 **application for a construction permit and any supporting plans and**
9 **specifications.**
10 **Sec. 3. As used in this chapter, "division" means the division of**
11 **fire and building safety established by IC 10-19-7-1.**
12 **Sec. 4. As used in this chapter, "plan review" means a review of**
13 **plans for construction, modification, or installation of a project to**
14 **determine if the plans comply with the department's rules.**
15 **Sec. 5. As used in this chapter, "project" means a project:**
16 **(1) that involves an improvement to real property; and**
17 **(2) for which a construction permit is required to be obtained**



1 from the department before the start of construction,
 2 installation, or modification of improvements to the real
 3 property.

4 The term includes the project types under 410 IAC 6-1 and 410
 5 IAC 6-10.1.

6 Sec. 6. The department shall provide notice under this chapter
 7 by:

- 8 (1) first class mail; or
- 9 (2) electronic mail.

10 Sec. 7. The department shall accept an application for a
 11 construction permit that is submitted by an applicant by either of
 12 the following methods:

- 13 (1) The applicant may submit an application to the division
 14 that is a combined application for:
 - 15 (A) a construction permit under this chapter; and
 - 16 (B) a design release under IC 22-15-3.
- 17 (2) The applicant may submit separate applications for:
 - 18 (A) a construction permit to the department; and
 - 19 (B) a design release under IC 22-15-3 to the division.

20 Not later than the next business day, the division shall provide a
 21 copy of the application submitted under subdivision (1) to the
 22 department to initiate processing of the construction permit under
 23 this chapter.

24 Sec. 8. Upon receiving a complete application for a construction
 25 permit, the department shall do one (1) of the following:

- 26 (1) Not later than ten (10) business days after the application
 27 is received, send written notice to the applicant that the
 28 application has been approved as submitted. Not later than
 29 the next business day after the date the notice is sent, the
 30 department shall issue the applicant the construction permit.
- 31 (2) Not later than ten (10) business days after the application
 32 is received, send written notice that a plan review will be
 33 conducted. However, if the applicant does not receive the
 34 notice within the period specified in this subdivision:
 - 35 (A) the application is automatically approved as
 36 submitted; and
 - 37 (B) the department shall, not later than the eleventh
 38 business day after the date a complete application is
 39 received, provide the applicant with the construction
 40 permit.

41 Sec. 9. If the department sends an applicant notice of a plan
 42 review under section 8(2) of this chapter within the period



required, the department shall do one (1) of the following:

(1) Not later than twenty (20) business days after the date that notice of the plan review is sent, send notice to the applicant that the plans and specifications as submitted have been approved for a construction permit. The department shall, not later than the next business day after the date that notice is sent to the applicant, provide the construction permit to the applicant.

(2) Not later than twenty (20) business days after the date that notice of the plan review is sent, send notice to the applicant that a construction permit will not be issued until the applicant submits corrections to the plans or specifications. However, if the applicant does not receive notice within the period specified in this subdivision:

(A) the application is approved as submitted; and

(B) the department shall, not later than the twenty-first business day after the date that notice of a plan review is sent under section 8(2) of this chapter, provide the construction permit to the applicant.

Sec. 10. (a) If the department receives corrections to a plan in response to a notice sent under section 9(2) of this chapter, and any time the department receives corrections to a notice under subdivision (2) thereafter, the department shall do one (1) of the following:

(1) Not later than ten (10) business days after receiving the corrections, send notice to the applicant that the corrected plans as submitted have been approved for a construction permit. The department shall, not later than the next business day after the date that notice is sent to the applicant, provide the applicant with a construction permit.

(2) Not later than ten (10) business days after receiving the corrections, send notice to the applicant that a construction permit will not be issued until the applicant submits additional corrections. However, if the applicant does not receive the notice within the period specified in this subdivision:

(A) the application is approved as submitted; and

(B) the department shall, not later than the eleventh business day after the date that the corrections were received by the department, provide the applicant with a construction permit.

(b) A review under this section is limited to the corrections



1 required by the department under the notice sent under section
 2 9(2) of this chapter or subsection (a)(2). All other parts of a project
 3 not directly related to corrections required by the department,
 4 including previously completed corrections that the department
 5 has already accepted, are considered approved for a construction
 6 permit and may not be included in subsequent notice requests sent
 7 under this section.

8 **Sec. 11. The department may not deny a construction permit**
 9 **based upon noncompliance or suspected noncompliance with a rule**
 10 **adopted under the authority of the fire prevention and building**
 11 **safety commission established by IC 22-12-2-1.**

12 **Sec. 12. The department may contract with a person to perform**
 13 **the department's plan review responsibilities under this chapter.**

14 SECTION 2. IC 16-41-26-15 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2016]: **Sec. 15. A construction permit issued**
 17 **by the state department of health for an agricultural labor camp**
 18 **under 410 IAC 6-12-7 is issued in accordance with IC 16-19-3.5.**

19 SECTION 3. IC 16-41-27-22, AS AMENDED BY P.L.113-2014,
 20 SECTION 108, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2016]: **Sec. 22. (a) The construction of a new**
 22 **mobile home community or alteration of an existing mobile home**
 23 **community shall be made only after plans for the proposed construction**
 24 **or alteration have been forwarded to and approved by the state**
 25 **department in accordance with IC 16-19-3.5.**

26 (b) A public water system may not be constructed or altered in a
 27 new or existing mobile home community until plans for the
 28 construction or alteration have been forwarded to and approved by the
 29 environmental commissioner under rules adopted by the environmental
 30 rules board.

31 (c) A sewage collection and disposal system may not be constructed
 32 or altered in a new or existing mobile home community until:

33 (1) plans for construction or alteration of the sewage collection
 34 system and any septic tank absorption field have been forwarded
 35 to and approved by the state department under rules adopted by
 36 the state department; and

37 (2) plans for construction or alteration of any sewage disposal
 38 system other than a septic tank absorption field have been
 39 forwarded to and approved by the environmental commissioner
 40 under rules adopted by the environmental rules board.

41 SECTION 4. IC 22-13-2-8.5, AS AMENDED BY P.L.218-2014,
 42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2016]: Sec. 8.5. (a) The commission shall adopt rules under IC 4-22-2 for outdoor event equipment at outdoor performances to protect the safety of persons at the outdoor performances. The commission may:

(1) exempt small assemblies of outdoor event equipment, as defined by the commission, from some or all fees or other requirements that otherwise would apply to outdoor event equipment under a rule adopted under this section or another building law; or

(2) establish alternative procedures, fees, or other requirements, or any combination, for small assemblies of outdoor event equipment, as defined by the commission.

(b) The commission may adopt temporary rules in the manner provided for the adoption of emergency rules under IC 4-22-2-37.1 to carry out subsection (a), including temporary rules concerning a schedule of fees for design releases or inspections, or both. A temporary rule adopted under this subsection expires on the earliest of the following:

(1) The date specified in the temporary rule.

(2) The date another temporary rule adopted under this subsection or a rule adopted under IC 4-22-2 supersedes or repeals the previously adopted temporary rule.

(3) January 1, 2016.

(c) Subject to this section, a city, town, or county that regulated outdoor event equipment before March 15, 2012, under an ordinance adopted before March 15, 2012, may, if the ordinance is in effect on March 15, 2012, continue to regulate outdoor event equipment under the ordinance after March 14, 2012, in the same manner that the city, town, or county applied the ordinance before March 15, 2012. However, a statewide code of fire safety laws or building laws governing outdoor event equipment that is adopted by the commission under this section after March 14, 2012, takes precedence over any part of a city, town, or county ordinance that is in conflict with the commission's adopted code. The ordinances to which this section applies include Chapter 536 of the Revised Code of the Consolidated City and County Indianapolis/Marion, Indiana Codified through Ordinance No. 36, 2011, passed August 15, 2011. (Supp. No. 27). A city, town, or county to which this subsection applies need not be certified or approved under IC 22-15-3-1 or another law to continue to regulate outdoor event equipment after March 14, 2012.

(d) This subsection applies to cities, towns, and counties described in subsection (c) and any other city, town, or county that, after March



1 14, 2012, adopts an ordinance governing outdoor event equipment that
 2 is approved by the commission or the state building commissioner. The
 3 city, town, or county shall require compliance with:

- 4 (1) the rules adopted under this section;
 5 (2) orders issued under IC 22-13-2-11 that grant a variance to the
 6 rules adopted under this section;
 7 (3) orders issued under IC 22-12-7 that apply the rules adopted
 8 under this section; and
 9 (4) a written interpretation of the rules adopted under this section
 10 binding on the unit under ~~IC 22-13-5-3 or IC 22-13-5-4;~~
 11 **IC 22-13-6;**

12 on both private and public property located within the boundaries of
 13 the city, town, or county, including, in the case of a consolidated city,
 14 the state fairgrounds. This subsection does not limit the authority of a
 15 unit (as defined in IC 36-1-2-23) under IC 36-7-2-9 to enforce building
 16 laws and orders and written interpretations related to building laws.

17 SECTION 5. IC 22-13-5 IS REPEALED [EFFECTIVE JULY 1,
 18 2016]. (Power of Building Law Compliance Officer to Interpret
 19 Building Laws).

20 SECTION 6. IC 22-13-6 IS ADDED TO THE INDIANA CODE AS
 21 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 22 1, 2016]:

23 **Chapter 6. Interpretation of Fire and Building Laws**

24 **Sec. 1. As used in this chapter, "committee" means the building**
 25 **and fire safety law interpretation committee created by section 3**
 26 **of this chapter.**

27 **Sec. 2. As used in this chapter, "interested person" refers to an**
 28 **official of a county or municipality, or a person that has a dispute**
 29 **with a county or a municipality regarding the interpretation of a**
 30 **building law or a fire safety law.**

31 **Sec. 3. The building and fire safety law interpretation committee**
 32 **is created as a subcommittee of the commission.**

33 **Sec. 4. The committee is composed of three (3) members of the**
 34 **commission who are appointed by the commission chair. Each of**
 35 **the members must represent different industries. Each member**
 36 **serves a one (1) year term beginning July 1 in a year and ending**
 37 **June 30 of the following year. A member may be reappointed to an**
 38 **unlimited number of terms.**

39 **Sec. 5. (a) An affirmative vote of at least two (2) members of the**
 40 **committee is required to grant or deny a petition under section 8**
 41 **of this chapter. The commission chair shall serve as an ex officio**
 42 **member of the committee and may vote only to break a tie. If a**



member fails to vote at more than four (4) meetings during the member's one (1) year term, the commission chair may:

(1) remove a member and

(2) appoint another member of the commission to serve the remainder of the member's term.

(b) The committee may conduct meetings by electronic communication under IC 5-14-1.5 under a policy adopted by the commission.

(c) Committee members may not receive a per diem or mileage reimbursement for service as a member of the committee.

Sec. 6. (a) An interested person may petition the committee for an interpretation of a building law or fire safety law by submitting the petition to the division. The committee shall set a biweekly deadline for the submission of interpretation petitions to the division.

(b) The division shall submit all petition requests that were received before the biweekly deadline to the committee. After receiving the petitions, the committee shall take one (1) of the following actions:

(1) If a petition is completed in compliance with section 7 of this chapter:

(A) the committee shall:

(i) vote on the substance of the petition not later than ten (10) business days after the date of receiving the petition; and

(ii) inform the division of the vote taken; and

(B) the division shall provide notice:

(i) to the petitioner electronically or by first class mail, that the petition is granted or denied; and

(ii) not later than one (1) business day after the date of the committee's vote on the petition.

(2) If at least two (2) members of the committee affirmatively vote that the petition has not been completed in compliance with section 7 of this chapter:

(A) the committee may not vote on the substance of the petition;

(B) the committee shall notify the division that the committee did not:

(i) vote on the substance of the petition; and

(ii) issue an interpretation;

because the petition has not been completed in compliance with section 7 of this chapter; and



(C) the division shall provide written notice to the petitioner not later than the next business day that:

- (i) the petition has not been completed in compliance with section 7 of this chapter; and
- (ii) the petition is not eligible to be voted on by the committee.

(c) If the committee does not vote on the substance of an interested party's petition under subsection (b)(2), this section does not prohibit the interested party from submitting a new petition to the committee for an interpretation of the same or similar building law or fire safety law to be considered at a subsequent meeting.

Sec. 7. The petitioner must submit a petition on a form approved by the commission. A petition is not sufficient unless the petitioner completes the petition in accordance with the following requirements:

- (1) The petition must clearly state the petitioner's interpretation of the disputed building law or fire safety law and provide a sufficient basis in the relevant law to support the petitioner's interpretation.
- (2) If the county or municipality has an interpretation of the building law or fire safety law, the petition must clearly state the county's or municipality's interpretation of the disputed building law or fire safety law, and specify the basis in the relevant law for the interpretation.

The petitioner bears the burden of producing sufficient evidence or information to support the petitioner's interpretation of the law.

Sec. 8. Upon voting on a petition, the committee shall provide the division with a statement in the form of a hard paper copy or an electronic copy that does one (1) of the following:

- (1) Grants the petition and approves the petitioner's interpretation of the law.
- (2) Denies the petition and disapproves the petitioner's interpretation of the law.
- (3) Denies the petition and approves the county's or municipality's interpretation of the law.
- (4) Disapproves the petitioner's interpretation of the law and the county's or municipality's interpretation of the law. If at least two (2) committee members vote in favor of an alternate interpretation, the committee may provide the alternate interpretation in the statement issued under this section.

Committee members may provide comments regarding the basis for their vote, but the committee is not required to issue a formal



1 written interpretation, unless the committee publishes the
2 interpretation under section 11 of this chapter.

3 **Sec. 9. An interpretation of a building law or fire safety law**
4 **approved or disapproved by the committee must be consistent with**
5 **building laws and fire safety laws enacted by the general assembly**
6 **or adopted by the commission. The committee may approve or**
7 **disapprove a written interpretation of a building law or fire safety**
8 **law whether or not the county or municipality has taken any action**
9 **to enforce the building law or fire safety law.**

10 **Sec. 10. An interpretation of a building law or fire safety law**
11 **approved by the committee under this chapter is considered an**
12 **interpretation issued by the committee that binds:**

13 (1) the interested person; and

14 (2) the county or municipality with which the interested
15 person has the dispute;

16 until the interpretation is overruled in a proceeding under
17 IC 4-21.5. For purposes of IC 4-21.5, the commission is the ultimate
18 authority regarding an interpretation approved or disapproved
19 under this chapter.

20 **Sec. 11. (a) An interpretation of a building law or fire safety law**
21 **binds all counties and municipalities if the committee publishes the**
22 **approved interpretation of the building law or fire safety law in the**
23 **Indiana Register under IC 4-22-7-7(b). For purposes of**
24 **IC 4-22-7-7, an interpretation of a building law or fire safety law**
25 **published by the committee is considered adopted by an agency.**

26 **(b) An interpretation of a building law or fire safety law**
27 **published under this section binds all counties and municipalities**
28 **until the earliest of the following:**

29 (1) The general assembly enacts a statute that substantively
30 changes the building law or fire safety law as interpreted or
31 voids the written interpretation.

32 (2) The commission adopts a rule under IC 4-22-2 to state a
33 different interpretation of the building law or fire safety law.

34 (3) The interpretation of the building law or fire safety law is
35 found to be an erroneous interpretation in a judicial
36 proceeding.

37 (4) The committee publishes a different interpretation of the
38 building law or fire safety law.

39 SECTION 7. IC 22-15-2-6, AS AMENDED BY P.L.218-2014,
40 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2016]: Sec. 6. (a) To carry out the division's responsibilities,
42 the division or an employee or another agent of the division may:



- (1) exercise any program of supervision that is approved by the commission, if the responsibility involves the administration or enforcement of a building law;
- (2) enter and inspect any property, at a reasonable hour;
- (3) issue and enforce administrative orders under IC 22-12-7 and apply for judicial orders under IC 22-12-7-13; and
- (4) cooperate with law enforcement officers and political subdivisions that have jurisdiction over a matter.

~~(b) To carry out the state building commissioner's responsibilities, the state building commissioner shall issue a written interpretation of any building law under IC 22-13-5.~~

SECTION 8. IC 22-15-3.2-6, AS ADDED BY P.L.218-2014, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. (a) An applicant for a design release shall submit an application meeting the requirements of IC 22-15-3 to the division.

(b) This subsection applies only to an applicant for a design release for a project listed in 410 IAC 6-12-7 for which the applicant must obtain a construction permit from the state department of health under IC 16-19-3.5. After June 30, 2016, an applicant may submit a combined application to the division that is an application for:

- (1) a construction permit under IC 16-19-3.5; and**
- (2) a design release under this chapter.**

Not later than the next business day after receiving the combined application, the division shall provide a copy of the application to the department.

SECTION 9. IC 36-7-2-9, AS AMENDED BY P.L.22-2005, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 9. Each unit shall require compliance with:

- (1) the code of building laws and fire safety laws that is adopted in the rules of the fire prevention and building safety commission under IC 22-13;
- (2) orders issued under IC 22-13-2-11 that grant a variance to the code of building laws and fire safety laws described in subdivision (1);
- (3) orders issued under IC 22-12-7 that apply the code of building laws described in subdivision (1);
- (4) IC 22-15-3-7; and
- (5) a written interpretation of a building law and fire safety law binding on the unit under ~~IC 22-13-5-3 or IC 22-13-5-4.~~ **IC 22-13-6.**



1 SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this
2 SECTION, "department" means the state department of health
3 established by IC 16-19-1-1.

4 (b) As used in this SECTION, "division" means the division of
5 fire and building safety established by IC 10-19-7-1.

6 (c) Not later than June 30, 2016, the department and the division
7 shall do the following:

8 (1) Create a combined application form so that a person may
9 concurrently apply for:

10 (A) a design release under IC 22-15-3; and

11 (B) a construction permit under IC 16-19-3.5, as added by
12 this act.

13 (2) Create, implement, and maintain a process, system, or
14 agreement that enables the division to:

15 (A) transfer to the department; or

16 (B) make accessible to the department;
17 within one (1) business day of receipt, applications for
18 construction permits and design releases and any relevant
19 data and documents;

20 in accordance with IC 16-19-3.5, as added by this act and
21 IC 22-15-3.2, as amended by this act.

22 (d) This SECTION expires July 1, 2017.

23 SECTION 11. [EFFECTIVE UPON PASSAGE] (a) As used in this
24 SECTION, "commission" means the fire prevention and building
25 safety commission established by IC 22-12-2-1.

26 (b) Not later than June 30, 2016, the commission shall create a
27 form for a petition for interpretation of a building law or fire
28 safety law under IC 22-13-6, as added by this act.

29 (c) This SECTION expires July 1, 2017.

30 SECTION 12. An emergency is declared for this act.

